IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 4TH DECEMBER 2006 / 13TH AGRAHAYANA 1928

Crl.MC.No. 4058 of 2005()

CC.265/2004 of CHIEF JUDICIAL MAGISTRATE COURT, KOTTAYAM

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PETITIONER/ACCUSED:

DIANA P. MATHEW,
D/O.MATHEW KUNJU MATHEW, PADINJARE PARAMBIL,
THOTTAKKADU, KOTTAYAM.

BY ADV. SRI.SURIN GEORGE IPE

RESPONDENTS/COMPLAINANT:

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1. BABU PHILIP, PALLIKUNNEL HOUSE,
THOTTAKKADU P.O., KOTTAYAM, REP. BY
P.O.A. HOLDER BABY PHILIP, PALLIKUNNEL HOUSE,
THOTTAKKADU P.O., KOTTAYAM,

2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB
SRI.JOSE PALLATTUKARAN

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 04/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.4058 of 2005

Dated this the 4th day of December 2006

O R D E R

The petitioner is the second accused in a prosecution and she has come to this court with this petition under Section 482 Cr.P.C, aggrieved by Annexure 4 order under which charges have been framed against her under Section 420 read with 34 I.P.C. Her father is the co-accused.

2. The crux of the allegation is that the accused persons, in furtherance of their common intention, defrauded the complainant. A loan was availed and misrepresenting a cheque to be that of the first accused, a cheque leaf of the second accused with the signature of the first accused was handed over to the complainant. This is the offence allegedly committed by the accused persons, in furtherance of their common intention.

3. After enquiry under Section 244 Cr.P.C, charges have been framed under Section 246 Cr.P.C. The petitioner has not chosen to challenge the said revisable order by filing any revision petition. The petitioner has come to this court with this application under Section 482 Cr.P.C to quash the charge raised against the petitioner.

4. Having heard the learned counsel for the petitioner and having perused the impugned order, I find absolutely no circumstances justifying the invocation of the jurisdiction under Section 482 Cr.P.C in favour of the petitioner who has not taken resort to the provisions of the code which entitles her to challenge the charge by a properly instituted revision. At any rate, I am satisfied that there are no circumstances justifying the invocation of the extraordinary inherent jurisdiction in favour of the petitioner.

5. In the result, this Criminal Miscellaneous Case is dismissed but I may hasten to observe that the dismissal of this Criminal Miscellaneous Case will not in any way fetter the rights of the petitioner to raise all appropriate and relevant contentions before the learned Magistrate in the course of the trial.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006